

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte JOHANN MESETH

Appeal No. 2005-0714  
Application No. 09/655,091

ON BRIEF

MAILED

MAR 30 2005

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Before KIMLIN, OWENS and JEFFREY T. SMITH, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-8.  
Claims 9-14 have been withdrawn from consideration.

Claim 1 is illustrative:

1. A containment vessel of a nuclear power plant,  
comprising:

an interior space;

a condensing chamber disposed in said interior  
space;

a pressure chamber disposed in said interior  
space, said pressure chamber having a top region;

Appeal No. 2005-0714  
Application No. 09/655,091

a condenser communicating with said pressure chamber through a flow path;

a condensing pipe leading into said condensing chamber; and

a drain pipe for noncondensable gases, said drain pipe disposed in said interior space and fluidically connecting said top region of said pressure chamber to said condensing chamber, said drain pipe defining a direct connection to said condensing chamber, and said drain pipe not connected to said condenser.

The examiner relies upon the following reference in the rejection of the appealed claims:

Gaouditz et al. (Gaouditz)      4,022,655      May 10, 1977

Appellant's claimed invention is directed to a containment vessel of a nuclear power plant comprising, inter alia, a drain pipe 4 for noncondensable gases which fluidically connects the top region of a pressure chamber to the condensing chamber.

Appealed claims 1-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gaouditz.

Appellant submits at page 10 of the brief that "claims 3, 5, and 7 stand or fall with claim 1 and claims 4, 6, and 8 stand or fall with claim 2." However, since we discern no separate arguments advanced by appellant for independent claims 1 and 2, all of the claims stand or fall together with claim 1.

We have thoroughly reviewed each of appellant's arguments for patentability. However, we fully concur with the examiner that the claimed subject matter is described by Gaouditz within the meaning of § 102. Accordingly, we will sustain the examiner's rejection for the reasons set forth in the answer, which we incorporate herein, and we add the following for emphasis only.

We agree with the examiner that there is no apparent distinction between the structure of the apparatus described by Gaouditz and the structure of apparatus within the scope of the appealed claims. The principal argument advanced by appellant is that pipe 14, or bubbling ducts, of Gaouditz does not meet the requirement for the claimed drain pipe for noncondensable gases. However, although Gaouditz does not expressly teach that pipe 14 receives noncondensable gases, the examiner has set forth a rational basis for concluding that pipe 14 of the reference is fully capable of transmitting noncondensable gases under accident conditions. Appellant has not refuted the examiner's reasonable finding that pressure chamber 7 of Gaouditz would necessarily, or inherently, have air located therein, and that "[d]uring an accident condition steam developing in the pressure chamber would

entrain the air (i.e., non-condensable gas) and direct said air (non-condensable gases)/steam mixture into the condensing chamber)" (page 5 of answer, second paragraph). As explained by the examiner, the appealed claims do not preclude the drain pipe conveying steam in addition to noncondensable gases.

Appellant maintains that the claimed drain pipe 22 for noncondensable gases "have a substantially different purpose and different dimensions and positions than the condensing pipe (14)" (page 13 of brief, second paragraph). Appellant continues that "due to the substantially different functions of the two components, the condensing pipe (14) and the drain pipe (22) according to the invention of the instant application have completely different structures" (id.). However, the examiner has properly noted that neither the appealed claims nor the present specification set any particular dimensions or structure for the drain pipe that in any way disqualify pipe 14 of Gaouditz as being a drain pipe for noncondensable gases. Nor has appellant explained why pipe 14 of Gaouditz would not function as a drain pipe for noncondensable gases during an accident condition. As for appellant's argument that pipe 14 of Gaouditz is not suitable for draining of noncondensable gases because its inlet is not disposed at a


Appeal No. 2005-0714  
Application No. 09/655,091

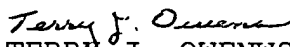
location where the gases can accumulate, we agree with the examiner that Figure 1 of the reference clearly depicts pipe 14 located in the upper portion, or top region, of a pressure chamber, as presently claimed.


In conclusion, based on the foregoing, and the reasons well-stated by the examiner, the examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

  
EDWARD C. KIMLIN )  
Administrative Patent Judge )

  
TERRY J. OWENWS )  
Administrative Patent Judge )

  
JEFFREY T. SMITH )  
Administrative Patent Judge )

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

ECK/vsh

Appeal No. 2005-0714  
Application No. 09/655,091

LERNER AND GREENBERG, PA  
P.O. BOX 2480  
HOLLYWOOD FL 33022-2480